

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Matabata, LLC	
t/a Bodega	Show Cause
3116 M Street, NW	Hearing
Retailer CR	(Status)
License No. 78301	
Case No. 14-CC-00016	
Sale to minor	

October 29, 2014

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairman Ruthanne Miller, presiding.

PRESENT

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
MICHAEL SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member

ALSO PRESENT:

CHRISSY GEPHARDT, OAG

P-R-O-C-E-E-D-I-N-G-S

(9:46 a.m.)

CHAIR MILLER: Good morning ladies and gentlemen, I hear our microphones aren't working, so if you can't hear me signal me, otherwise we'll just, you okay?

PARTICIPANT: Yes.

CHAIR MILLER: All right, I'll just try to speak a little more loudly. I'd like to welcome you to the regularly scheduled meeting of the District of Columbia Alcoholic Beverage Control Board.

Today is October 29, 2014, my name is Ruthanne Miller, I'm the Chairperson. Immediately to my right is Mr., to my far right is Mr. Nick Alberti and next to him on my right is Mr. Hector Rodriguez.

MEMBER RODRIGUEZ: Good morning.

CHAIR MILLER: And to my left is Mike Silverstein.

MEMBER SILVERSTEIN: Good morning.

CHAIR MILLER: So we have four in

1 attendance to conduct business this morning
2 and three constitutes a quorum. Copies of
3 today's hearing calendar and agenda are
4 available at the receptionist's desk.

5 Please be aware that these
6 proceedings are being recorded by a court
7 reporter. Accordingly we must ask you to
8 refrain from any disruptive noises or actions
9 in the hearing room.

10 If you have any electronic
11 devices, pagers, cell phones or such, please
12 make certain that they're turned off to avoid
13 any interruption of the proceedings.

14 When I call your case please come
15 forward and take a seat at the table. You'll
16 notice that there's a piece of paper on each
17 table for you to sign in. This is to ensure
18 the correct spelling of your name for the
19 record.

20 The Open Meetings Act requires
21 that the public hearing on each case be open
22 to the public. The Board may, consistent with

1 Section 405(b) of the Open Meetings Act, enter
2 a closed meeting during or after the public
3 hearing on a case to consult with an attorney,
4 to obtain legal advice, discuss settlement
5 agreements or deliberate upon a decision in an
6 adjudication preceding.

7 Okay, that concludes my
8 introductory remarks and I'm going to turn to
9 this morning's calendar, we have several cases
10 scheduled at the 9:30 time and so I'm not
11 going to necessarily call them in order this
12 morning.

13 I'm going to start first with Case
14 Number 14-CC-00016, Bodega, located at 3116 M
15 Street, Northwest, License Number 78301 in ANC
16 2E.

17 MR. HOROWITZ: Good morning.

18 CHAIR MILLER: Good morning.

19 MR. HOROWITZ: My name is Eli
20 Horowitz, I'm representing Bodega. And with
21 me is Mouhsine Idrissi, the principal.

22 CHAIR MILLER: Okay.

1 MS. GEPHARDT: Chrissy Gephardt on
2 behalf of the Office of the Attorney General.
3 Good morning.

4 CHAIR MILLER: Good morning. And
5 Mr. Horowitz, did your Client receive notice
6 of this hearing?

7 MR. HOROWITZ: Yes.

8 CHAIR MILLER: Did he read it and
9 understand it?

10 MR. HOROWITZ: Yes.

11 CHAIR MILLER: Okay, so there's no
12 notice issue?

13 MR. HOROWITZ: No, not at all.

14 CHAIR MILLER: Are there any
15 preliminary issues?

16 MS. GEPHARDT: Yes, there is a
17 preliminary issue. The parties have agreed on
18 an Offer-In-Compromise that we would like to
19 present to the Board this morning.

20 In this case we have agreed on a
21 \$5,000 fine and ten days stayed for one year,
22 plus alcohol awareness training for all

1 servers within three months.

2 And so the breakdown would be a
3 \$3,000 fine and five days stayed for Charge 1
4 and a \$2,000 fine and a five day stayed for
5 Charge 2.

6 CHAIR MILLER: Okay. Is that what
7 you agreed to?

8 MR. HOROWITZ: That's agreeable to
9 the Applicant.

10 CHAIR MILLER: And you understand
11 that you waive your rights for a hearing?

12 MR. HOROWITZ: Yes.

13 CHAIR MILLER: And appeal? Okay.
14 So I just have one question, the alcohol
15 awareness training within three months of
16 today, I assume, if the OIC is approved?

17 MS. GEPHARDT: Yes, that's
18 correct.

19 CHAIR MILLER: Okay. And since
20 it's in the OIC, but with respect to new
21 hires, are there any --

22 MS. GEPHARDT: Well --

1 MR. IDRISSE: How can we prove
2 that? How can we, because everybody employed
3 there already has, is TIPS certified --

4 MS. GEPHARDT: Well I mean I think
5 that --

6 MR. IDRISSE: We need to present
7 those too?

8 MS. GEPHARDT: -- the training you
9 have to, you have to complete the training.
10 You and the people how have already been TIPS
11 certified have to go through the training
12 again.

13 MR. IDRISSE: Okay.

14 MS. GEPHARDT: Okay.

15 MR. IDRISSE: So we will get a
16 second certification?

17 MR. HOROWITZ: Yes.

18 MS. GEPHARDT: Yes. And then for
19 new hires I guess they would have to go
20 through alcohol awareness training --

21 MR. HOROWITZ: They do that.

22 MS. GEPHARDT: -- when they're

1 hired.

2 MR. HOROWITZ: They do that upon -
3 -

4 MS. GEPHARDT: Oh, okay.

5 CHAIR MILLER: And let me --

6 MS. GEPHARDT: And the fine could
7 be paid within 60 days.

8 MEMBER ALBERTI: In March? Just
9 one moment please.

10 (Off record comment.)

11 MS. GEPHARDT: Okay.

12 MEMBER SILVERSTEIN: Sorry about
13 that.

14 MS. GEPHARDT: Okay, and then if
15 the fine is not paid within 60 days, the
16 license would be automatically suspended.

17 CHAIR MILLER: Is the Licensee
18 agreeable to that?

19 MR. HOROWITZ: Yes.

20 CHAIR MILLER: Okay. All right,
21 anything else? Any other questions?

22 Okay, then I'm going to move that

1 we approve this Offer-In-Compromise, which is
2 for a total of \$5,000 fine, to be paid within
3 60 days, ten days suspension stayed for one
4 year, permitting no violations within that
5 year, alcohol awareness training for all
6 servers within three months.

7 And it divides, between the first
8 charge, \$3,000 and five days, and the second
9 the charge, \$2,000 and five days.

10 And if the fine isn't paid within
11 60 days then the license will be suspended
12 until the fine is paid.

13 MEMBER RODRIGUEZ: I second.

14 CHAIR MILLER: Okay, it's been
15 seconded by Mr. Rodriguez.

16 MR. HOROWITZ: Okay.

17 CHAIR MILLER: Okay, all those in
18 favor --

19 MEMBER SILVERSTEIN: I have a
20 comment.

21 CHAIR MILLER: Oh, okay, comment
22 before we vote.

1 MEMBER SILVERSTEIN: I'm going to
2 support this, but I do want to point out on
3 the record just how, not just egregious but
4 outrageous this particular case was. That our
5 investigators go in, this was not a compliance
6 check, but these people appeared to our
7 investigators to be underage.

8 They confiscated six fake IDs.
9 There were three cases where there were no,
10 where people had no IDs at all, according to
11 the reports, and the bar tab on this one table
12 was \$400. This isn't a case of somebody
13 sneaking in and getting a beer.

14 These are the kinds of things
15 where we have seen people leave underage are
16 irresponsible. And I think of case in
17 Virginia where a car was wrapped around the
18 tree and there was a fatality.

19 We take this extremely seriously.
20 My hope is that it was simply a very bad error
21 on the bar or somebody, but I fear otherwise.
22 I'll vote for this, but I hope that you learn

1 from this and that we cannot tolerate this.

2 MR. HOROWITZ: If I just may
3 respond?

4 MEMBER SILVERSTEIN: Yes, sir.

5 MR. HOROWITZ: Mr. Idrissi and his
6 organization also take this very seriously.
7 They realize this was an egregious error.

8 They did review the licenses of
9 all of the people and they all had
10 identification, copies are in the file, and
11 they appeared to be legitimate IDs. But
12 notwithstanding they were not and they did do
13 it wrong.

14 And I'd like to say that they took
15 it very seriously. And that the manager that
16 was on duty that night has been dismissed as
17 part of the review of the situation.

18 MEMBER SILVERSTEIN: Noted, thank
19 you.

20 MEMBER RODRIGUEZ: Thank you.

21 CHAIR MILLER: Any other comment
22 from the Board members? Okay, then there's a

1 motion that's been seconded, all those in
2 favor say aye?

3 (Chorus of ayes.)

4 CHAIR MILLER: All those opposed?
5 All those abstaining? Motion passes, 4-0-0.
6 Thank you very much.

7 MR. HOROWITZ: Thank you very
8 much, have a good day.

9 (Whereupon, the above-entitled
10 matter went off the record at 9:56 a.m.)
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<p>A</p> <p>\$2,000 6:4 9:9 \$3,000 6:3 9:8 \$400 10:12 \$5,000 5:21 9:2 a.m 2:2 12:10 above-entitled 12:9 abstaining 12:5 Act 3:20 4:1 actions 3:8 adjudication 4:6 advice 4:4 agenda 3:3 agreeable 6:8 8:18 agreed 5:17,20 6:7 agreements 4:5 Alberti 1:15 2:16 8:8 alcohol 5:22 6:14 7:20 9:5 Alcoholic 1:2,11,12 2:11 ANC 4:15 appeal 6:13 appeared 10:6 11:11 Applicant 6:9 approve 9:1 approved 6:16 assume 6:16 attendance 3:1 attorney 4:3 5:2 automatically 8:16 available 3:4 avoid 3:12 aware 3:5 awareness 5:22 6:15 7:20 9:5 aye 12:2 ayes 12:3</p>	<p>2:12 Board 1:2,12 2:12 3:22 5:19 11:22 Bodega 1:6 4:14,20 breakdown 6:2 Building 1:12 business 3:1</p> <p>C</p> <p>calendar 3:3 4:9 call 3:14 4:11 car 10:17 case 1:8 3:14,21 4:3 4:13 5:20 10:4,12 10:16 cases 4:9 10:9 Cause 1:6 cell 3:11 certain 3:12 certification 7:16 certified 7:3,11 CHAIR 2:3,8,19,22 4:18,22 5:4,8,11 5:14 6:6,10,13,19 8:5,17,20 9:14,17 9:21 11:21 12:4 Chairman 1:13 Chairperson 1:15 2:14 charge 6:3,5 9:8,9 check 10:6 Chorus 12:3 Chrissy 1:19 5:1 Client 5:5 closed 4:2 Columbia 1:1 2:11 come 3:14 comment 8:10 9:20 9:21 11:21 complete 7:9 compliance 10:5 concludes 4:7 conduct 3:1 confiscated 10:8 consistent 3:22 constitutes 3:2 consult 4:3</p>	<p>Control 1:2,11,12 2:12 copies 3:2 11:10 correct 3:18 6:18 court 3:6 CR 1:7</p> <p>D</p> <p>D.C 1:13 day 6:4 12:8 days 5:21 6:3 8:7 8:15 9:3,3,8,9,11 decision 4:5 deliberate 4:5 desk 3:4 devices 3:11 discuss 4:4 dismissed 11:16 disruptive 3:8 District 1:1 2:11 divides 9:7 duty 11:16</p> <p>E</p> <p>egregious 10:3 11:7 electronic 3:10 Eli 4:19 employed 7:2 ensure 3:17 enter 4:1 error 10:20 11:7 everybody 7:2 extremely 10:19</p> <p>F</p> <p>fake 10:8 far 2:15 fatality 10:18 favor 9:18 12:2 fear 10:21 file 11:10 fine 5:21 6:3,4 8:6 8:15 9:2,10,12 first 4:13 9:7 five 6:3,4 9:8,9 forward 3:15 four 2:22</p>	<p>G</p> <p>General 5:2 gentlemen 2:4 Gephardt 1:19 5:1 5:1,16 6:17,22 7:4 7:8,14,18,22 8:4,6 8:11,14 getting 10:13 go 7:11,19 10:5 going 4:8,11,13 8:22 10:1 good 2:3,18,21 4:17 4:18 5:3,4 12:8 guess 7:19</p> <p>H</p> <p>hear 2:4,5 hearing 1:7,12 3:3 3:9,21 4:3 5:6 6:11 Hector 1:16 2:17 hired 8:1 hires 6:21 7:19 hope 10:20,22 Horowitz 4:17,19 4:20 5:5,7,10,13 6:8,12 7:17,21 8:2 8:19 9:16 11:2,5 12:7</p> <p>I</p> <p>identification 11:10 Idrissi 4:21 7:1,6 7:13,15 11:5 IDs 10:8,10 11:11 Immediately 2:15 interruption 3:13 introductory 4:8 investigators 10:5 10:7 irresponsible 10:16 issue 5:12,17 issues 5:15</p>	<p>K</p> <p>kinds 10:14</p> <p>L</p> <p>ladies 2:3 learn 10:22 leave 10:15 left 2:19 legal 4:4 legitimate 11:11 license 1:8 4:15 8:16 9:11 Licensee 8:17 licenses 11:8 little 2:9 LLC 1:6 located 4:14 loudly 2:9</p> <p>M</p> <p>M 1:7 4:14 manager 11:15 March 8:8 Matabata 1:6 matter 1:5 12:10 mean 7:4 meeting 1:3 2:11 4:2 Meetings 3:20 4:1 Member 1:15,16,16 2:18,21 8:8,12 9:13,19 10:1 11:4 11:18,20 members 11:22 met 1:12 MICHAEL 1:16 microphones 2:4 Mike 2:20 Miller 1:13,15 2:3 2:8,14,19,22 4:18 4:22 5:4,8,11,14 6:6,10,13,19 8:5 8:17,20 9:14,17 9:21 11:21 12:4 minor 1:9 moment 8:9 months 6:1,15 9:6</p>
<p>B</p> <p>bad 10:20 bar 10:11,21 beer 10:13 behalf 5:2 Beverage 1:2,11,12</p>			<p>J</p>	

morning 2:3,18,21 3:1 4:12,17,18 5:3 5:4,19 morning's 4:9 motion 12:1,5 Mouhsine 4:21 move 8:22 <hr/> N <hr/> N.W 1:13 name 2:13 3:18 4:19 necessarily 4:11 need 7:6 new 6:20 7:19 Nick 1:15 2:16 night 11:16 noises 3:8 Northwest 4:15 Noted 11:18 notice 3:16 5:5,12 notwithstanding 11:12 Number 4:14,15 NW 1:7 <hr/> O <hr/> OAG 1:19 obtain 4:4 October 1:10 2:13 Offer-In-Compr... 5:18 9:1 Office 5:2 Oh 8:4 9:21 OIC 6:16,20 okay 2:6 4:7,22 5:11 6:6,13,19 7:13,14 8:4,11,14 8:20,22 9:14,16 9:17,21 11:22 open 3:20,21 4:1 opposed 12:4 order 4:11 organization 11:6 outrageous 10:4 <hr/> P <hr/>	P-R-O-C-E-E-D... 2:1 paggers 3:11 paid 8:7,15 9:2,10 9:12 paper 3:16 part 11:17 PARTICIPANT 2:7 particular 10:4 parties 5:17 passes 12:5 people 7:10 10:6,10 10:15 11:9 permitting 9:4 phones 3:11 piece 3:16 please 3:5,11,14 8:9 plus 5:22 point 10:2 preceding 4:6 preliminary 5:15 5:17 present 1:14,18 5:19 7:6 presiding 1:13 principal 4:21 proceedings 3:6,13 prove 7:1 public 3:21,22 4:2 <hr/> Q <hr/> question 6:14 questions 8:21 quorum 3:2 <hr/> R <hr/> read 5:8 realize 11:7 receive 5:5 receptionist's 3:4 record 3:19 8:10 10:3 12:10 recorded 3:6 Reeves 1:12 refrain 3:8 regularly 2:10 <hr/>	remarks 4:8 reporter 3:7 reports 10:11 representing 4:20 requires 3:20 respect 6:20 respond 11:3 Retailer 1:7 review 11:8,17 right 2:8,15,16,17 8:20 rights 6:11 Rodriguez 1:16 2:17,18 9:13,15 11:20 room 1:12 3:9 Ruthanne 1:13,15 2:14 <hr/> S <hr/> Sale 1:9 scheduled 2:10 4:10 seat 3:15 second 7:16 9:8,13 seconded 9:15 12:1 Section 4:1 seen 10:15 seriously 10:19 11:6,15 servers 6:1 9:6 settlement 4:4 Show 1:6 sign 3:17 signal 2:5 Silverstein 1:16 2:20,21 8:12 9:19 10:1 11:4,18 simply 10:20 sir 11:4 situation 11:17 six 10:8 sneaking 10:13 somebody 10:12,21 Sorry 8:12 speak 2:9 spelling 3:18 <hr/>	start 4:13 Status 1:7 stayed 5:21 6:3,4 9:3 Street 1:7,13 4:15 support 10:2 suspended 8:16 9:11 suspension 9:3 <hr/> T <hr/> t/a 1:6 tab 10:11 table 3:15,17 10:11 take 3:15 10:19 11:6 ten 5:21 9:3 thank 11:18,20 12:6,7 things 10:14 think 7:4 10:16 three 3:2 6:1,15 9:6 10:9 time 4:10 TIPS 7:3,10 today 2:13 6:16 today's 3:3 tolerate 11:1 total 9:2 training 5:22 6:15 7:8,9,11,20 9:5 tree 10:18 try 2:9 turn 4:8 turned 3:12 <hr/> U <hr/> underage 10:7,15 understand 5:9 6:10 <hr/> V <hr/> violations 9:4 Virginia 10:17 vote 9:22 10:22 <hr/> W <hr/> waive 6:11 <hr/>	want 10:2 Washington 1:13 we'll 2:6 welcome 2:10 went 12:10 working 2:5 wrapped 10:17 wrong 11:13 <hr/> X <hr/> Y <hr/> year 5:21 9:4,5 <hr/> Z <hr/> 0 <hr/> 1 <hr/> 1 6:3 14-CC-00016 1:8 4:14 14th 1:12 <hr/> 2 <hr/> 2 6:5 2000 1:12 2014 1:10 2:13 29 1:10 2:13 2E 4:16 <hr/> 3 <hr/> 3116 1:7 4:14 <hr/> 4 <hr/> 4-0-0 12:5 405(b) 4:1 <hr/> 5 <hr/> 6 <hr/> 60 8:7,15 9:3,11 <hr/> 7 <hr/> 78301 1:8 4:15 <hr/> 8 <hr/> 9 <hr/>
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9:30 4:10
9:46 2:2
9:56 12:10